

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

WILLIAM R. PESKIN, MARK
PERKINS; KENNETH L. KLAER; and
MARIE R. KLAER, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

PEACHTREE INVESTMENT
SOLUTIONS, LLC; DWAYNE
PETERSON DAVIS; J. STEPHEN
BUSH; OLD IVY CAPITAL
PARTNERS, LLC; DANIEL S.
CARBONARA; BRYAN CAVE
LEIGHTON PAISNER LLP;
TENNILLE & ASSOCIATES, INC.;
JEAN H. ROBERTS, IN HER
CAPACITY AS PERSONAL
REPRESENTATIVE FOR THE
ESTATE OF DAVID R. ROBERTS;
FOOTHILLS LAND CONSERVANCY,
INC.; WILLIAM C. CLABOUGH, SR.;
and WARREN AVERETT, LLC,

Defendants.

C.A. No. 1:21-cv-00002-SCJ

JURY TRIAL DEMANDED

**DEFENDANTS' JOINT RESPONSE TO PLAINTIFFS' NOTICE OF
SUPPLEMENTAL AUTHORITY (DKT. 151)**

Defendants respectfully submit this Joint Response to Plaintiffs’ Notice of Supplemental Authority regarding the Georgia Supreme Court’s recent grant of certiorari in *Coe v. Proskauer Rose LLP*, Case No. S21C1250. Plaintiffs’ contention that the grant of certiorari on two issues in that case “could impact the limitations analysis here” is wrong. Dkt. 151.

Coe v. Proskauer Rose LLP, 360 Ga. App. 68 (2021), is one of the many cases Defendants have cited for the well-settled proposition that malpractice claims accrue at the time allegedly deficient advice is given (rather than when injury is sustained). *See* Dkt. 137 at 22–23. The Georgia Supreme Court has not granted certiorari to revisit the accrual-upon-advice rule for malpractice claims; to the contrary, it is poised to consider whether that rule should *also* apply to fraud and negligent misrepresentation claims. *See* Dkt. 151-1 (Question 1).

Further, the fact the Georgia Supreme Court has also taken up an issue related to tolling says nothing about how it will ultimately resolve that issue. *See id.* (Question 2). And even if the Georgia Supreme Court were to reverse on the narrow issue presented, it would not change the result in this case. *See* Dkt. 112-1 at 48–50 (explaining that Plaintiffs’ fraudulent concealment argument fails for five, independently sufficient reasons).

Dated: January 14, 2022

Respectfully submitted,

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***Pursuant to Appendix H to the
Civil Local Rules, the electronic
signatory has confirmed that the
content of the document is acceptable.*

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2022, I electronically filed the foregoing document with the Clerk of Court using the Court's CM/ECF system, which will automatically send email notification of such filing to all counsel of record.

/s/ Eric P. Schroeder
Eric P. Schroeder

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that on January 14, 2022, the foregoing complies with the font and point selection approved by this Court in Local Rule 5.1(B). This paper was prepared on a computer using Century Schoolbook thirteen-point font, double-spaced.

/s/ Eric P. Schroeder
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